

# ARKANSAS SUPREME COURT

No. CR 06-612

NOT DESIGNATED FOR PUBLICATION

DAVID CARROLL GOODWIN  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered      October 26, 2006

*PRO SE* MOTION TO FILE  
SUPPLEMENTAL BRIEF AND  
MOTION TO PROCEED *IN FORMA*  
*PAUPERIS* [CIRCUIT COURT OF  
SEBASTIAN COUNTY, CR 2003-581,  
HON. NORMAN WILKINSON, JUDGE]

MOTION TO FILE SUPPLEMENTAL  
BRIEF DENIED; MOTION TO  
PROCEED *IN FORMA PAUPERIS*  
MOOT

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## PER CURIAM

A jury found appellant David Carroll Goodwin guilty of manufacturing methamphetamine, possession of methamphetamine with intent to deliver, and felon in possession of a firearm, and sentenced him, as an habitual offender, to an aggregate term of 240 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed the judgment. *Goodwin v. State*, CACR 04-851 (Ark. App. June 15, 2005). Appellant timely filed in the trial court a petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Counsel representing appellant has lodged an appeal of that order in this court. Now before us are appellant's *pro se* motions requesting that we allow appellant to file a *pro se* supplemental brief and that we allow him to proceed *in forma pauperis* as to that supplemental brief.

Appellant does not request that his attorney be relieved so that he may be permitted to proceed *pro se*. Appellant seeks instead to have this court consider his own *pro se* arguments in

addition to those presented by counsel, indicating that counsel has not argued certain issues. An appellant is not entitled to accept appointment of counsel to represent him, and also proceed *pro se*. *Hamilton v. State*, 348 Ark. 532, 74 S.W.3d 615 (2002). Moreover, this court will not permit an appellant to compete with his attorney to be heard in an appeal. *Franklin v. State*, 327 Ark. 537, 939 S.W.2d 836 (1997) (*per curiam*); see also *Monts v. Lessenberry*, 305 Ark. 202, 806 S.W.2d 379 (1991) (*per curiam*).

An appellant is not permitted to supplement a brief filed by counsel unless he clearly shows that counsel's brief is lacking. *Gidron v. State*, 312 Ark. 517, 850 S.W.2d 331 (1993) (*per curiam*), citing *Wade v. State*, 288 Ark. 94, 702 S.W.2d 28 (1986) (*per curiam*). Appellant asserts that counsel did not address the issue of the prior convictions used on the habitual offender charge, and offers a number of arguments on that point. Appellant does not offer any discussion of any other omitted issues, or otherwise address how other issues might be meritorious.

Counsel's brief does address the issue of collateral attack of the previous convictions, although not in the same manner as appellant would. Appellant has made no showing of any deficiency in the brief. A brief will not be held deficient merely because the appellant is dissatisfied with the arguments made or the issues raised. *Dokes v. State*, 299 Ark. 178, 772 S.W.2d 583 (1989) (*per curiam*). As appellant has not made a showing of any deficiency in the brief, we will not permit supplementation of the brief, and the motion to file a supplemental brief is accordingly denied. The motion to proceed *in forma pauperis* is therefore moot.

Motion to file supplemental brief denied; motion to proceed *in forma pauperis* moot.